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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 563 OF 2006

Shri Hirabhau Gopala Kodre & ors. ... Appellants

V/s

Shri Kailas Baban Kodre ... Respondent

Mr. G.S. Godbole for the appellants.

Mr. N.V. Bandiwadekar with anil Desai with Uday Warunjikar for the respondent.

CORAM: SMT. NISHITA MHATRE, J.

DATED: 27TH JULY, 2007.

P.C.:

1. By consent, the second appeal is taken up for hearing forthwith. The judgment of the appellate Court discloses that the effect of certain admissions in the cross-examination of the plaintiff’s evidence have not been considered by the appellate Court. The appellate Court being the last fact finding Court, must consider all the evidence before it.

2. By consent, the judgment and order of the appellate Court dated 21.2.2006 is set aside.

3. Civil Appeal No. 387 of 2004 is remanded for consideration afresh in the light of the evidence on record and the judgments cited by both the parties. The appellate Court will dispose of the appeal within six months from today.

4. Appeal is disposed of accordingly.

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